

**RULES  
OF  
TENNESSEE DEPARTMENT OF STATE  
DIVISION OF CHARITABLE SOLICITATIONS**

**CHAPTER 1360-3-4  
CATASTROPHIC ILLNESS TRUSTS**

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**1360-3-4-.01 DEFINITIONS.**

- (1) "Catastrophic illness" means a severe illness requiring prolonged hospitalization or recovery and involving high costs for medical care.
- (2) "Secretary of State" means the Secretary of State or the Secretary's authorized representative.
- (3) "Trusts" means a custodial account established pursuant to Tennessee Code Annotated Section 35-11-101 *et seq.*

**Authority:** T.C.A. §§ 48-101-501(8) and 48-101-503(b); Chapter 430 § 10 of the Public Acts of 2007. **Administrative History:** Public necessity rule filed August 1, 2007; effective through January 13, 2008. Public necessity rule filed August 1, 2007, expired effective January 14, 2008. Original rule filed November 6, 2007; effective March 28, 2008.

**1360-3-4-.02 NOTICE REQUIREMENTS FOR ESTABLISHING CATASTROPHIC ILLNESS TRUST.**

- (1) The trustee or bank or trust company acting as trustee shall file with the Secretary of State written notice of the establishment of the trust.
- (2) The notice shall include the name, address and contact information of the trustee and beneficiary as well as identification of the financial institution where the trust was established.

**Authority:** T.C.A. § 35-11-102(d); Chapter 430 § 6 of the Public Acts of 2007. **Administrative History:** Public necessity rule filed August 1, 2007; effective through January 13, 2008. Public necessity rule filed August 1, 2007, expired effective January 14, 2008. Original rule filed November 6, 2007; effective March 28, 2008.

**1360-3-4-.03 ACCOUNTING OF THE TRUST.**

- (1) A trustee, other than a bank or trust company acting as trustee, shall file with the Division of Charitable Solicitations and Gaming an accounting of the trust on the yearly anniversary of the establishment of the trust.
- (2) The financial accounting of the trust filed shall include all revenue and expenditures of the trust.

**Authority:** T.C.A. § 35-11-102(e); Chapter 430 § 6 of the Public Acts of 2007. **Administrative History:** Public necessity rule filed August 1, 2007; effective through January 13, 2008. Public necessity rule filed August 1, 2007, expired effective January 14, 2008. Original rule filed November 6, 2007; effective March 28, 2008.

(Rule 1360-3-4-.03, continued)

**1360-3-4-.04 FINANCIAL RECORDS.**

- (1) All trustees shall be responsible for maintaining true and accurate financial records of the trust, including, but not limited to, records of all revenue and expenses of the trust. All records should be kept for no less than three (3) years.
- (2) Such records shall be made available to the Secretary of State for inspection subject to the provisions of Title 45, Chapter 10 and the Federal Right to Financial Privacy Act, Pub. L. 95-630, as amended, 12 U.S.C. Section 3401 et seq.
- (3) In addition to the authority to inspect financial records, the Secretary of State may compel additional production of documents, exhibits, or things, or subpoena duces tecum presentation and delivery of all records or other tangible items, by any person which the Secretary believes to be pertinent in conducting any investigation.

**Authority:** T.C.A. § 35-11-101 et seq.; Chapter 430 §§ 8, 9 of the Public Acts of 2007; T.C.A. § 48-101-514(b)(1). **Administrative History:** Public necessity rule filed August 1, 2007; effective through January 13, 2008. Public necessity rule filed August 1, 2007, expired effective January 14, 2008. Original rule filed November 6, 2007; effective March 28, 2008.

**1360-3-4-.05 ASSESSMENT OF CIVIL PENALTIES.**

- (1) The Secretary of State may impose a civil penalty of not more than five thousand dollars (\$5,000) for each and any violation of Tennessee Code Annotated Section 35-11-101 et seq. or any rule thereunder.
- (2) Upon notice to affected parties of the imposition of civil penalties by the Secretary of State, the affected party may seek review by requesting a hearing, which shall be conducted pursuant to the Uniform Administrative Procedures Act, Title 4, Chapter 5.
- (3) Any civil penalty shall be enforced in the following manner:
  - (a) If a petition for review of the assessment of a penalty through a “contested case” hearing is not filed within thirty (30) days after the date the assessment is served, the affected party shall be deemed to have consented to the assessment and it shall become final;
  - (b) Whenever any assessment has become final, because of a person’s failure to appeal the Secretary of State’s assessment or otherwise, the Secretary of State, in the name of the state, may apply to the appropriate court for a judgment and seek execution on such judgment. The court, in such proceedings, shall treat the failure to appeal such assessment as a confession of judgment in the amount of the assessment; and
  - (c) The Secretary of State may institute proceedings for assessment in the chancery court of Davidson County or in the chancery court of the county in which all or part of the violation or failure to comply occurred, or in the county in which such person resides, has such person’s principal place of conducting solicitations, or has conducted or transacted business or solicitation campaigns.

**Authority:** T.C.A. § 35-11-101 et seq.; Chapter 430 § 7 of the Public Acts of 2007; T.C.A. § 48-101-514(a)(1), 2(A-C). **Administrative History:** Public necessity rule filed August 1, 2007; effective through January 13, 2008. Public necessity rule filed August 1, 2007, expired effective January 14, 2008. Original rule filed November 6, 2007; effective March 28, 2008.